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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,000	01/11/2006	William Neuberg	P/4661-99	7161
2352 7590 08/20/2007 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			EXAMINER HUTCHINSON, SHAWN R	
			ART UNIT 1709	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/541,000

Applicant(s)

NEUBERG, WILLIAM

Examiner

Shawn R. Hutchinson

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1709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 28 June 2005 and 04 May 2006.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification Objections***

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.
2. The disclosure is objected to because of the following informalities: Applicant's use of the terms "dispersible PTFE powder" and "pelletized master batch" to describe a master batch where the subject matter is particles is unclear [0026].

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.
4. Claims 8, 9, 14, and 15 are rejected under 35 U.S.C. 112, second paragraph for failing to comply with the statute.
5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's use of the "dispersible PTFE powder" and "pelletized master batch" [0026] to describe a specific concentration of particles is

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unclear. Pelletized master batch is indefinite and Applicant's intended meaning is unclear between pelletized particles or an aqueous master batch of particles.

6. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's claim lacks specificity regarding the medium in which the particle powder is dispersed in the "pelletized master batch," in an aqueous or organic dispersion as specified, [0026].

7. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The grammatical structure, "...PTFE particles are distributed substantially homogeneously through the wet spun extrusion," is unclear regarding the relationship between – distributed and extrusion. Applicant's claim lacks definiteness regarding whether the matter pertains to the particles in the extrudate or the system.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1-4, 7, and 10-18 are rejected under 35 U.S.C. 102(b) as anticipated by Marini, et al. {Marini} (GB 2121069A). Marini teaches:

- a. Cellulose- cellulose-based viscose fibers containing hydrophobic polymer(s) such as poly(tetrafluoroethylene), (Claims 1-6), and a method of making, (Claims 8 and 9).;
- b. Particle distribution and size- the "finely distributed hydrophobic polymer," (Page 2, Lines 14-15), is incorporated in, "[an] amount of 1 to 60%...of the total fiber mass," (Claim 1), wherein, "the mineral fillers *or* the hydrophobic substances are used as an aqueous suspension with a particle...size of below 3- $\mu$ m," (Page 2, Lines 10-11).;
- c. Processing- in order to manufacture a viscose fiber with particles, the size would inherently be smaller than the spinneret channels if finely distributed hydrophobic polymer particles are "incorporated...without loss" into a cellulose viscose fiber containing is obtained from the process, (Page 2, Line 15).;
- d. Preparation- the dispersion is "stirred into the viscose" before "[the fiber] collapses" and the process constitutes adding the particles into the viscose as part of its preparation phase, (Page 2, Lines 13-14).; and
- e. Articles- a nonwoven fabric, or statutory category of article, comprising the fibers, (Claims 6-7 and 10-11).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 5, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marini, et al. {Marini} (GB 2 121 069 A).

Marini teaches, "[an] aqueous dispersion having a content of 39% polyethylene (Polyäthylene Dispersion PE 30 from Hoechst)," (Page 3, Line 43, see also Examples 1 and 3-5). Both polyethylene and polytetrafluorethylene are taught as suitable polymer particle additives, (Page 1, Line 44-45). Marini lack specific wording that PTFE particles can be used in an aqueous dispersion or masterbatch of a specific weight. Without definition of, "pelletized master batch" [0026], the Examiner interprets it to mean a singular quantity of PTFE material, which one of ordinary skill can obtain from a commercial (master batch) production of hydrophobic polymeric particles and an aqueous dispersion made therefrom.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the examples based on the teaching by Marini of particle dispersions or suspensions to include PTFE particles. It is held that, "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover

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the optimum or workable ranges by routine experimentation," see *in re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Further, it would be well within the grasp of one of ordinary skill in the art to obtain or mix a master batch based on the concentrations taught. The motivation would have been to elaborate upon known means to obtain the benefits of PTFE in a viscose fiber. Thus, it would have been obvious to modify Marini and obtain the invention as specified.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marini, et al. {Marini} (GB 2 121 069 A) in view of Lantos (US 2951047 A).

Marini taught the use of PTFE particles in an aqueous dispersion but lacked dispersing the particles in an organic solvent. Lantos teaches the solvent extrusion of PTFE containing fibers from an aqueous emulsion wherein the PTFE is dispersed in, "a water-immiscible organic solvent," (Column 1 Lines 19-20).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the teaching of spinning cellulose-based fibers with micron-sized PTFE particles {Marini} using PTFE particles in an organic solvent dispersion {Lantos}. The motivation would have been better dispersion, ({Lantos} Column 4, Lines 45-50), and compatibility with the viscose dope. Thus, it would have been obvious to combine Marini with Lantos and obtain the invention as specified.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for details.

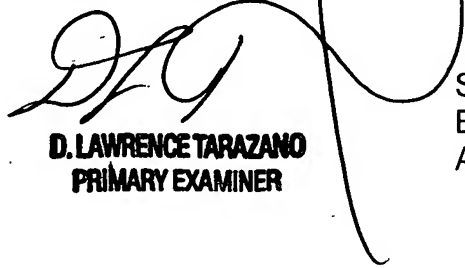
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***Conclusion***

Any inquiry concerning this communication from the Examiner should be directed to Shawn R. Hutchinson whose telephone number is (571) 270-1546. The Examiner can normally be reached on 7 AM to 5 PM, M-F, odd Fridays off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 271-1515. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.



**D. LAWRENCE TARAZANO**  
**PRIMARY EXAMINER**

Shawn R. Hutchinson  
Examiner  
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